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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

RE: EX PARTE in Docket CC No. 94-129

Dear Mr. Caton:

MCI Telecommunications Corporation (MCI) is submitting this letter to support the adoption by the Commission of mandatory independent "third party verification" or "TPV"[1] in all instances involving telecommunications service sales -- including intraLATA -- to residential and small business consumers, unless consumers elect to change service providers by direct contact and interaction with their serving local exchange carriers (LECs).[2] TPV should be required for all changes of service regardless of whether a sale is made through telemarketing, direct-mail, so-called "check-LOAs," face-to-face sales or other means. As shown herein, adoption of such a rule is necessary and appropriate, timely, and would further

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[1] TPV is a process whereby a consumer's decision to switch telecommunications service from one provider to another is confirmed by telephone by an independent verifier that is unaffiliated with the consumer's newly chosen carrier. The TPV entity must be independently owned and operated as well as financially disinterested in the transaction, and it should operate under reasonable guidelines that ensure a neutral confirmation of carrier choice.

[2] "Residential service" requires no additional definition. The rule also should encompass small business service switches due to the proliferation of home-based small businesses, and the difficulty of differentiating among high volume residential users, residential users with multiple line accounts, and small business accounts marketed and sold in the same manner as residential accounts. For purposes of this proposed rule, MCI suggests that small business customers be defined as accounts with five lines or less.

the public interest. It is especially important, given the increasing number of carriers entering both the local exchange and interexchange markets and the resulting likelihood that there will follow significantly increased aggressive marketing undertakings by these carriers.[3]

"Slamming," or the unauthorized switching of a consumer's telephone service, continues to be a serious problem despite Commission and other regulatory efforts to eliminate it.[4] Consumers and regulators have become increasingly concerned about slamming, and the growing lack of consumer confidence in the existing process is damaging to the industry and to a healthy competitive process.

In 1985, the FCC implemented rules that provided interexchange carriers (IXCs) with the authority to submit orders for service -- on behalf of consumers who had chosen them to provide service in the then-new "equal access" environment -- directly to LECs.[5] In so doing, IXCs effectively were made the agents for the consumers who had chosen them. In recognition of the fact that this approach might deprive consumers of adequate control over the IXC selection process and conversion, the Commission required that carriers undertake to seek a "letter of agency" or "LOA" to document and thereby prove consumer decisions to switch carrier service-providers.[6] The LOA became an accepted form of confirmation to show consumer IXC selections.

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[3] Section 258 of the Telecommunications Act of 1996 provides the Commission with statutory authority to adopt verification procedures for providers of telephone exchange service or telephone toll service. The Commission should exercise its authority under section 258 to adopt a national rule requiring TPV.

[4] The California Public Utilities Commission recently banned a carrier from doing business in California for 40-months as a result of its use of "raffle coupons" in restaurants and stores to slam 200,000 people, many of them, apparently, consumers subject to language barriers. "PUC Kicks Phone Firm Out Of State," The Los Angeles Times, December 16, 1996.

[5] Investigation of Access and Divestiture Related Tariffs, 101 FCC 2d 911, recon. denied, 102 FCC 2d 503 (1985); Investigation of Access and Divestiture Related Tariffs, 101 FCC 2d 935 (1985).

[6] Id.

Throughout the 1980s and up to the present time, LOAs have proved to be increasingly ineffective means to ensure consumer choice. This especially is the case as competition has evolved to the point where, today, a growing majority of carrier sales take place through outbound and inbound telemarketing. Faced with this reality, the Commission showed its willingness to adopt new approaches for verification. Following suggestions by MCI and others, it approved four verification methods in 1991 for application to outbound telemarketing. It permitted order confirmation by: (1) written LOAs; (2) electronic authorizations using toll-free numbers; (3) oral verifications by independent TPV; and (4) mailed information packets containing denial cards giving customers fourteen days to cancel their orders before an order was processed for installation by a LEC.[7]

One of the approved verification measures -- TPV -- has been especially effective in improving telemarketing sales quality and ensuring safe consumer choice. Unfortunately, however, slamming problems continue to exist largely because of non-telephone based sales activities that rely upon the use of LOAs (e.g., check LOAs, direct face-to-face sales, deceptive brochures, sweepstakes offers and disguised petitions, forged LOAs, and other deceptive document-based marketing approaches), or telemarketing sales conducted without benefit of TPV.[8] Plainly, more comprehensive protective measures are needed and will become even more important in an era of increased competition, where consumers and carriers alike will be faced with the confusing prospect of juggling at least two LOAs for each consumer, one for interLATA service and one for intraLATA service.

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[7] Policies and Rules Concerning Changing Long Distance Carriers, 7 FCC Rcd 1038 (1992). In 1995, the Commission expanded the outbound telemarketing verification requirement to include inbound telemarketing sales as well. See Policies and Rules Concerning Unauthorized changes of Consumers' Long Distance Carriers, 10 FCC Rcd 9560 (1995); recon. pending.

[8] Slamming complaints have spurred state legislative and regulatory efforts to curb unauthorized conversions. Over the past several years, a number of states proposed that written LOAs be acquired before any switch could take place. To date, all such efforts have eventually been rejected. In California, for example, the legislature initially proposed a mandatory LOA rule, but eventually rejected it, and adopted instead a mandatory TPV requirement similar to what is being proposed herein.See Cal. SB 1140.

MCI submits that any movement toward reliance on, or worse, requirement for written LOAs would be a serious misstep. MCI's experience -- and that of the industry generally -- demonstrates that a disproportionate number of slamming complaints, including LEC reported PIC disputes and other complaints, occur as a result of LOAs.[9] While the sheer number of switches made over the telephone may make the gross number of PIC disputes appear to have some relationship to telemarketing, the important point is that, as a percentage of sales, a far higher percentage of LOA-based transactions result in slamming complaints than occurs through telemarketing with TPV. LOAs are notoriously susceptible to deceptive marketing practices. They delay the ability of consumers to change carriers, impose a significant cost burden on carriers, and they frustrate consumers to whom they are provided and who seldom execute and return them. MCI's own experience, in fact, indicates that, while MCI attempts to obtain LOAs from each customer to whom it successfully has telemarketed its offerings, only a tiny percentage of them are ever returned.

In contrast to LOAs, TPV has proved to be a more effective "sales quality" and slamming-avoidance verification measure. Industry experience conclusively demonstrates that sales verified by independent TPV result in far fewer PIC disputes and slamming complaints than sales that do not receive TPV. In addition, TPV is consumer-friendly, efficient, and allows consumers to install service quickly. It provides a neutral, independent verification method that is completely separate from the sales process. Significantly, it is a manageable burden on carriers because its cost is more than offset by the benefits it brings, including fewer customer disputes and a reduction in costs associated with switching customers back to previous carriers, and dispute resolution. TPV helps reduce the costs associated with obtaining and warehousing paper LOAs. Perhaps most importantly, TPV is competition-friendly because it minimizes barriers to consumer choice and increases consumer confidence in the industry.

MCI's recent experiences using TPV offer compelling justification and support for its adoption. Since MCI's adoption of TPV for outbound telemarketing, less than one-half of one

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[9] Most of the FCC's recent enforcement actions related to slamming complaints involve forged LOAs or deceptive written marketing materials, including proceedings against Cherry Communications (4/94), TTI (1/96), Nationwide (1/96), Home Long Distance (1/96), AT&T (1/96), MCI (1/96), Heartline Communications (6/96), Excel Communications (6/96).

percent of all MCI sales generated from outbound telemarketing result in PIC disputes or other complaints. In contrast, prior to MCI's recent expanded commitment to TPV, other non-telemarketing sales channels were sources of concern. LOA-driven sales channels were the source of a disproportionately large percentage of MCI complaints. During 1995, for example, LOA-driven sales channels represented less than 20-percent of new MCI sales, but almost 50-percent of LEC-reported PIC disputes.

With the expansion by MCI of TPV in early 1996 for virtually all non-LEC sales, MCI experienced a dramatic reduction in LEC-reported PIC disputes. In comparing PIC disputes for September 1995 versus September 1996 for face to face direct sales, for example, PIC change disputes were reduced by nearly a factor of six. Overall, PIC disputes were reduced by nearly one-third. There is no reason to believe that MCI's success with TPV could not be realized by other carriers as well, thereby benefiting consumers, carriers and regulators.

TPV is the single most efficient, effective and consumer-friendly method of ensuring customer choice. It takes place by telephone -- in most cases immediately following a consumer's agreement to switch IXCs. During TPV, the consumer is contacted by, or connected to, a representative of an independent entity who confirms the sale. The representative asks the consumer a defined set of objective questions, all of which are crafted to ascertain whether the consumer wanted to make the change and understands that his/her service will be changed over to another carrier. The TPV contact is quick, efficient and neutral. Pivotal to TPV's success is the fact that the representative performing TPV has no sales incentive. He or she has only one purpose -- to determine whether the customer wants to switch their service -- and, of course, the verifier is not compensated on the basis of any completed sale.

Independent TPV offers a "win-win proposition" for all interested parties. Consumers will benefit because they can choose their service provider with confidence that their selections are being accurately treated through interaction with a disinterested party. TPV also benefits carriers. Sales confirmed through TPV are "quality sales", reducing expensive customer churn, and reducing the expense and distraction of unhappy and complaining consumers who raise carrier customer service costs and billing credit expenses when they complain about unauthorized conversions. Finally, TPV will result in a reduction in consumer complaints, which means that regulators also will benefit from the predictable decline in consumer complaint levels.

For all the above reasons, the Commission should adopt mandatory TPV as the exclusive means of confirming residential and small business sales in all instances other than when consumers elect to change service providers by doing so through their serving local exchange carriers.

Please include this letter in the record of this proceeding.

Sincerely,

Mary J. Sisak

Mary J. Sisak